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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/019,631	05/22/2002	Hasin Francois de Charmoy Grey	45900-000714/US	1115

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EXAMINER

MENEFEE, JAMES A

ART UNIT	PAPER NUMBER
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2828

DATE MAILED: 12/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/019,631

Applicant(s)

GREY ET AL.

Examiner

James A. Menefee

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.


- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 30-65 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 30-65 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.


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Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

In response to the preliminary amendment filed 5/22/2002, claims 1-29 are cancelled and claims 30-65 added. Claims 30-65 are pending.

Double Patenting

Claims 38 and 45 are objected to under 37 CFR 1.75 as being a substantial duplicate of claims 37 and 44 respectively. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k). Here, the claims only differ in what they call the angle by which the two crystal axes differ. There is nothing in the claims to distinguish a twist angle from a tilt angle, and thus both of the claims cover identical subject matter.

Claim Objections

Claims 46-65 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Each of these systems is using the article of claim 39 in a different system. These claims do not further limit the structure of *the article*. They are merely using the article in a new system.

Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claims 46, 56, and 61-62 should be rewritten in independent form incorporating the limitations of parent claim 39.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 57-58 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. These claims are reciting methods of fabricating an object, but are dependent upon device claims. It is not clear from the claim whether the applicant is intending to claim a method claim or a device claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 30-34, 37-41, 44-48, 50-55 are rejected under 35 U.S.C. 102(c) as being anticipated by Xie (US 5,888,885). Xie discloses the claimed invention as follows:

Regarding claims 30 and 39,

Regarding claims 31-34 and 40-41, the first and second groups of elements each comprise silicon.

Regarding claims 37-38 and 44-45, it is not explicitly disclosed that the differences in the axes will be as claimed, however Si and GeSi will necessarily have the differences as claimed and thus the limitation is deemed inherent.

Regarding claims 46-48, 50-55, the article may be used in a laser having quantum dots, where the quantum dots comprise the materials as claimed. A quantum dot laser system may inherently be pumped as claimed.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 35-36, 42-43, 49, and 56-65 rejected under 35 U.S.C. 103(a) as being unpatentable over Xie. Xie discloses the limitations of the claims as shown above, but does not disclose the particular specifics of the systems in which the article is to be used. All of these types of system are well known, and it would have been obvious to one skilled in the art to use the article in these particular systems as a matter of obvious engineering design.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Each of these systems disclose crystals adjacent to each other similar to the present invention.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to James A. Menefee whose telephone number is (703) 605-4367. The examiner can normally be reached on M-F 8:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Ip can be reached on (703) 308-3098. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9318.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.



JM
November 20, 2003



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